



JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court
(Incumbent)

Full Name: Charles Joe-Wayne McCutchen

Business Address: 1325 St. Matthews Road, Orangeburg, SC 29118

Business Telephone: (803) 268-9800

1. Why do you want to serve another term as a Circuit Court judge?

Ironically, although elected on April 17th, 2024, I have not taken the bench, and I will not start until January 2nd, 2025. Since my election, I have taken the opportunity to (in addition to my own court appearances) to observe other sitting Circuit Court Judges hold Court when I can. I realize that along with everything, there is a learning curve; however, I have really enjoyed sitting with Judges and have already obtained a wealth of knowledge from my soon-to-be peers on holding court and running General Sessions non-jury dockets. This experience has me more excited than ever to take the bench, and it has also reinforced my desire to become a Circuit Court Judge as I have stated in my prior application responses, as reiterated below:

I first witnessed the function of a Circuit Court Judge when my high school Civics teacher took our class on a field trip to observe a General Sessions term of Court. After completing law school and starting to practice law, I became even more familiar how an impartial judiciary operates and interacts with litigants, lawyers, jurors and the general public. In my experience, judges are respectful to all persons appearing before them, allow the same deference to all parties involved, all the while maintaining order and control of the courtroom and the matters before them. The requisite even-keeled, mild-mannered, patient, yet precise, always fair and impartial demeanor of a circuit court judge is what has always drawn me to aspire to become one. Throughout my years of practice, I have always tried to view my cases as opposing counsel might, but most importantly as the presiding judge will one day, which assists properly preparing a case of any type, and adequately and properly representing my clients. I believe the judicial qualities of fairness and impartiality, which are of utmost importance, are greatly complemented by the additions of integrity, humility, and kindness; characteristics that I attempt to utilize daily in both my professional and

personal life, which I believe have ultimately prepared me become a Circuit Court Judge.

2. Do you plan to serve your full term if elected?

Yes, I plan on serving a full term if elected.

3. Do you have any plans to return to private practice one day?

No, I do not plan on returning to private practice.

4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?

Yes, I meet all of residence, age and legal practice requirements to hold the position.

5. What is your philosophy regarding ex parte communications? Are there circumstances under which you could envision ex parte communications being tolerated?

My philosophy on ex parte communications is that they are prohibited and should be avoided. The only time ex parte communications are allowed is for scheduling and administrative purposes, but never regarding substantive information on any matter, save and except the very limited circumstances that the rules provide for.

6. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

Even though I believed I could be fair and impartial and would not be prejudiced, I would hear the motion for recusal made by the party and would be inclined to grant the motion for recusal if I disclosed something that had the appearance of bias.

7. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

As a judge, I would make all efforts to avoid any appearance of impropriety on the part of myself, my spouse, and/or close relatives. If such appearance of impropriety exists, I believe full disclosure of the issue would

be a minimum, and if there existed any concern or objection, recusal would be appropriate.

8. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I would not accept any gifts or social hospitality if there would exist any appearance of impropriety, particularly from those who would be expected to regularly appear in front of me as a judge.

9. How would you handle a situation in which you became aware of misconduct or appearance of infirmity of a lawyer or of a fellow judge?

I believe it would be appropriate to report any misconduct or infirmity of any member of the bar or judiciary to the appropriate authority, as well as any such institution for which that person could obtain the assistance they need.

10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Please describe.

I have not engaged in any fund raising activities with any organizations.

11. Do you have any business activities that you would envision remaining involved with if elected to the bench?

No.

12. How do you handle the drafting of orders?

Although I have not had the opportunity to take the bench I have not had to draft any orders to date. I believe that drafting of any order would depend on the specific situation. If it were a simple, straight forward ruling, a form 4 order may be appropriate. In other situations, I would ask counsel for the parties to prepare proposed orders, or prepare an order in line with my ruling. If the matter required detailed analysis with specific findings of fact, I may in fact draft the order myself.

13. What methods do you use to ensure that you and your staff meet deadlines?

I have not yet had the opportunity to implement any specific method to assure deadlines are met; however, the use of an electronic calendaring system with periodic reminders, equipped with a backup system is extremely important in calendaring and meeting deadlines. I have used various forms of these systems in my practice of law and would continue to do so if elected. Further, I believe a paper backup calendaring system can also be beneficial in case of computer failure.

14. What is your philosophy on “judicial activism,” and what effect should judges have in setting or promoting public policy?

I am not, and would not become a “judicial activist.” I believe that judges should administer and apply the law as written, and how reported cases have applied it. Stare Decisis should control when applying the law. However, once public policy is stated, judges can and should assist in promoting public policy of the State in applying the law to any given set of facts.

15. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

If asked I would happily attend CLEs and other bench/bar conferences to assist and promote the swift, efficient administration of justice.

16. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

I personally do not think that the pressure of serving a judge would strain my personal relationships. It is extremely important to make time for your family and children, aside from your career, which I have always made a point to do in my personal life.

17. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.
- a. Repeat offenders:

Obvious by the term, repeat offenders did not properly rehabilitate after their first or prior conviction/sentence, and South Carolina law usually dictates stronger and stiffer penalties for second or subsequent offenders, which I would certainly adhere to. With that being said, all persons who

would appear in front of me as a repeat offender would still be granted all of the Constitutional protections afforded to them by the U.S. and State Constitutions, yet still be sentenced fairly and accordingly under South Carolina Law.

b. Juveniles (that have been waived to the Circuit Court):

Any juvenile who has been waived into Circuit Court would have obviously been charged with a serious crime and I would treat it as such. However, I do not believe that all crimes, even sometimes serious ones, committed by juveniles should always permanently and negatively affect them for the rest of their lives, which is partly why the Youthful Offender Act exists. Depending on the situation, sometimes mistakes can be turned into positive outcomes if given the opportunity; but a judge should always take into consideration the seriousness of the crime during sentencing.

c. White collar criminals:

White collar crimes, as with other crimes, carry with them a sentence, and I would not treat a white collar criminal any more favorably or unfavorably than a blue collar criminal, as all have the same rights afforded to them, and no one should be sentenced based on their status and status alone.

d. Defendants with a socially and/or economically disadvantaged background:

As stated above in section (c), no one should be sentenced based on their status alone. I would sentence all offenders fairly under the law, and if the law allows giving, for example, a financially disadvantaged defendant longer to pay a fine, that may be appropriate; however, if other options are available to them within the law, I would consider them as alternatives as to not put an economically disadvantaged defendant at further disadvantage by immediate incarceration due to their inability to pay a statutory fine.

e. Elderly defendants or those with some infirmity:

Although the fine or sentence of someone elderly or ill would not necessarily be different, I think it is proper to allow some deference and consider the medical issues involving the elderly or infirm. For instance, if a dialysis patient was sentenced to 90 days, it may be appropriate to allow the service of weekend time as to not interfere with that individual's medical treatment.

18. Are you involved in any active investments from which you derive

additional income that might impair your appearance of impartiality?

No, my primary and only source of income is from the practice of law.

19. Would you hear a case where you or a member of your family held a de minimis financial interest in a party involved?

Yes, if it was merely a de minimis interest; however, I believe that disclosing the interest would also be appropriate.

20. Are you a member of any organization or association that, by policy or practice, prohibits or limits its membership on the basis of race, sex, religion, or national origin? If so, please identify the entity and explain if this organization practices invidious discrimination on any basis.

No, I am not a member of any such organization.

21. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period?

Yes, I have met the mandatory CLE hours requirement for 2023-24 reporting cycle, and have 12.00 MCLE and 2.00 LEPR credits carried over into the current reporting period. In addition, I was invited to attend the Circuit Court Judges Conference in April 2025 in Sumter, and I have 11.00 hours of JCLE credit, with only 4.0 additional credit hours needed, which I plan on obtaining at the Judicial Conference scheduled later in the year and prior to me taking the bench on January 2, 2025.

22. What do you feel is the appropriate demeanor for a judge and when do these rules apply?

I believe that a judge should always be even-tempered, calm, and self-controlled both inside and outside of the courtroom. The public eye is always on a judge, whose title carries with it respect, and as such, these rules would apply to any judge every hour of every day.

23. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

No, a judge should never show outward anger towards any lawyer, criminal defendant, party or pro se litigant. Anger leads to compulsive behavior. A judge can calmly and collectively administer justice, even to the

point of finding someone in contempt of court, without becoming outwardly angry or aggressive toward anyone in a courtroom.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Sworn to before me this ____ day of _____, 2024.

(Signature)

(Print Name)
Notary Public for South Carolina
My Commission Expires: _____